

Preface

Even though fisheries subsidies have been around for centuries, these remain a relatively new subject in international law.

I wish to acknowledge and express my appreciation to all those who played a major role in the conception, development and successful completion of this dissertation.

First, I would like to express my gratitude to Prof. Dr. Rüdiger Wolfrum who acted as my doctoral supervisor and provided helpful suggestions and guidance in the development and formation of this dissertation. I also wish to thank Prof. Dr. Peter Ehlers who acted as the second reviewer. Of special note is Prof. Dr. Rainer Lagoni who was always there to provide assistance and encouragement whenever needed. Inexhaustible assistance was provided by the staffs of the International Max Planck Research School for Maritime Affairs and those at the libraries of the Heidelberg Max Planck Institute for Comparative Public Law and International Law and the Hamburg Max Planck Institute for Comparative and International Private Law. The seminars organized by Prof. Dr. Ehlers and Prof. Dr. Lagoni and the various projects coordinated by the International Max Planck Research School gave me a greater and deeper insight and understanding in maritime affairs. The full scholarships granted by the International Max Planck Research School ensured that I had all the necessary resources during my stay in Hamburg to complete my research without financial concerns.

I am indebted to Dr. Cornelius Hammer (Director General of the Federal Research Centre for Fisheries), Director Jean-Francois Pulvenis de Séligny M. and Dr. Rebecca Metzger (Fisheries and Aquaculture Economics and Policy Division, Fisheries and Aquaculture Department, Food and Agriculture Organization of the United Nations) for their assistance and support.

My most heartfelt gratitude and appreciation go to my parents and younger brother who were always there for me with love and encouragement throughout my extended absence from home.

Special thanks to my friends, Dr. Bui Anh, Dr. Necip Kagan Kocaoglu, Beatrice Schütte and Angelika Sitz, who helped me accomplish this study in a number of different ways. Finally, I wish to express special recognition for Luis Franco who helped me in the final stages of this study and; without whose help, brainstorming and challenging observations, I could have not completed this study.

| | |
|--|------------|
| A. State Aid to the Fisheries Sector in the European Union | 173 |
| 1. State Aid Control..... | 173 |
| 2. State Aid Control to the Fisheries and Aquaculture Sector..... | 173 |
| a. Legal Basis | 173 |
| b. Guidelines..... | 176 |
| c. Exemptions from the Prior Notification Requirements | 178 |
| (1) Block Exemption Regulation for Fisheries..... | 178 |
| (2) <i>De Minimis</i> Aid in the Fisheries Sector | 179 |
| B. Structural Assistance to the Fisheries Sector in the European Union | 179 |
| 1. Structural Policy in the Fisheries Sector | 179 |
| 2. Structural Assistance between 1971 and 1993 | 180 |
| 3. Structural Assistance between 1994 and 2006 | 181 |
| 4. European Fisheries Fund..... | 183 |
| a. The Nature of the European Fisheries Fund | 183 |
| b. Comparison of the European Fisheries Fund..... | 184 |
| (1) A Comprehensive Policy | 184 |
| (2) A Unified Assistance Programme..... | 184 |
| c. Temporary Specific Action to Deal with the Economic Crisis..... | 185 |
| (1) Financing temporary cessation of fishing activities..... | 186 |
| (2) Investments in fuel-efficiency equipment..... | 186 |
| (3) Socio-economic compensation | 186 |
| (4) Pilot projects | 186 |
| (5) Other actions | 186 |
| d. Challenges of the European Fisheries Fund | 187 |
| (1) The Need for More Appropriate Budget Allocations..... | 187 |
| (2) The Need for More Compliance with the CFP Reform in 2002 | 187 |
| V. Comparison between the EU Regime and the Proposed WTO Regulations..... | 188 |
| A. The Effect of the WTO Agreements on the European Union Regime..... | 188 |
| B. Provisions of Structural Assistance | 190 |
| C. Bilateral Fisheries Agreements | 191 |
| VI. Conclusion..... | 192 |
| Conclusion | 193 |
| Attachments | 195 |
| Bibliography..... | 225 |
| Index | 251 |

Abbreviations

| | |
|----------------------|---|
| AB | Appellate Body |
| ACP | African, Caribbean and Pacific |
| AD | Antidumping Agreement |
| AoA | Agreement on Agriculture |
| APEC | Asia-Pacific Economic Cooperation |
| Bridges Trade BioRes | Bridges Trade and Biological Resources |
| CAC | Codex Alimentarius Commission |
| CBD | Convention on Biological Diversity |
| CCAMLR | Commission for the Conservation of Antarctic Marine Living Resources |
| CCSBT | Commission for the Conservation of Southern Bluefin Tuna |
| CFP | Common Fisheries Policy |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| COFI(FAO) | Committee on Fisheries |
| COP | Conference of the Parties (to the CBD) |
| CPC | Contracting Party, Cooperating Non-Contracting Party, Entity or Fishing Entity |
| CRN | Central Registry of Notifications |
| CTE | Committee on Trade and Environment |
| DG | Directorate-General |
| DSB | Dispute Settlement Body |
| DSM | Dispute Settlement Mechanism |
| DSU | Dispute Settlement Understanding |
| DWF | Distant Water Fleet |
| DWFN | Distant Water Fishing Nation |
| EAFRD | European Agricultural Fund for Rural Development |
| EAGF | European Agricultural Guarantee Fund |
| EAGGF | European Agriculture Guidance and Guarantee Fund |
| EC | European Communities |
| EDB | Environmental Data Base |
| EEZ | Exclusive Economic Zone |

| | |
|--------|---|
| EFF | European Fisheries Fund |
| ERDF | European Regional Development Fund |
| ESF | European Social Fund |
| EU | European Union |
| FAA | Fisheries Access Agreement |
| FAO | Food and Agriculture Organization of the United Nations |
| FIFG | Fisheries Instrument for Fisheries Guidance |
| FIRMS | Fishery Resources Monitoring System |
| FOC | Flags of Convenience |
| FPA | Fisheries Partnership Agreement |
| GATT | General Agreement on Tariffs and Trade |
| GFCM | General Fisheries Commission for the Mediterranean |
| GFT | Government Financial Transfer |
| HSVAR | High Seas Vessel Authorization Records |
| IATTC | Inter-American Tropical Tuna Commission |
| ICCAT | International Commission for the Conservation of Atlantic Tunas |
| ICES | International Council for the Exploration of the Seas |
| ICNAF | International Commission for the Northwest Atlantic Fisheries |
| ICSEAF | International Commission for the Southeast Atlantic Fisheries |
| ICTSD | International Centre for Trade and Sustainable Development |
| IEC | International Electrotechnical Commission |
| IGO | Intergovernmental Organization |
| IMF | International Monetary Fund |
| IOTC | Indian Ocean Tuna Commission |
| IPHC | International Pacific Halibut Commission |
| IPOA | International Plan of Action |
| ISO | International Organization for Standardization |
| ITO | International Trade Organization |
| ITQ | Individual Transferable Quota |
| ITU | International Telecommunications Union |
| IUU | Illegal, Unreported and Unregulated (Fishing) |
| LDC | Least-developed Country |
| LVFO | Lake Victoria Fisheries Organization |
| MAGP | Multi-Annual Guidance Programme |
| MCS | Monitoring, Control and Surveillance |

| | |
|---------|---|
| MEA | Multilateral Environmental Agreement |
| MOU | Memorandum of Understanding |
| MSC | Marine Stewardship Council |
| MSY | Maximum Sustainable Yield |
| NAFO | Northwest Atlantic Fisheries Organization |
| NASCO | North Atlantic Salmon Conservation Organization |
| NGAG | Negotiating Group on Agriculture |
| NPOA | National Plan of Action |
| NRBPs | Negotiating Group on Natural Resource Based Products |
| NSP | National Strategic Plan |
| OECD | Organisation for Economic Co-operation and Development |
| OIML | International Organization of Legal Metrology |
| OJ | Official Journal (of the European Communities) |
| PGE | Permanent Group of Experts |
| PGFE | Permanent Group of Fisheries Experts |
| R&D | Research and Development |
| RFMO | Regional Fisheries Management Organization |
| RPOA | Regional Plan of Action |
| S&D | Special and Differential (Treatment) |
| SBSTTA | (CBD's) Subsidiary Body on Scientific, Technical and Technological Advice |
| SCM | (Agreement on) Subsidies and Countervailing Measures |
| SEAFDEC | Southeast Asian Fisheries Development Center |
| SME | Small and Medium-sized Enterprise |
| SPS | (Agreement on the Application of) Sanitary and Phytosanitary Measures |
| SVE | Small, Vulnerable Economy |
| TAC | Total Allowable Catch |
| TBT | (Agreement on) Technical Barriers to Trade |
| TPRM | Trade Policy Review Mechanism |
| TRIMs | (Agreement on) Trade-Related Investment Measures |
| TRIPS | (Agreement on) Trade-Related Aspects of Intellectual Property Rights |
| UN | United Nations |
| UNCLOS | United Nations Convention on the Law of the Sea |
| UNEP | United Nations Environment Programme |

| | |
|--------|--|
| VMS | Vessel Monitoring System |
| WCO | World Customs Organization |
| WCPFC | Western and Central Pacific Fisheries Commission |
| WECAFC | Western Central Atlantic Fisheries Commission |
| WHO | World Health Organization |
| WSSD | World Summit on Sustainable Development |
| WTO | World Trade Organization |
| WWF | World Wildlife Fund |



<http://www.springer.com/978-3-642-15692-2>

Fisheries Subsidies under International Law

Chen, C.-J.

2010, XX, 254 p., Softcover

ISBN: 978-3-642-15692-2